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OFFICE OF PETITIONS

In re Application of :
Nakahara et al. : DECISION GRANTING PETITION
Application No. 10/040,738 :
Filed: 1 November, 2001 :
Attorney Docket No. 6731-01 :

This is a decision on the petition filed on 11 March, 2002, requesting that the above-referenced application be accorded a filing date of 1 November, 2001, with Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 as a part of the original disclosure.

The petition is GRANTED

The application was filed on 1 November, 2001. On 12 February, 2002, Initial Patent Examination Division mailed a "Notice of Omitted Items in a Nonprovisional Application," stating that the application had been accorded a filing date of 1 November, 2002, but that Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 described in the specification appeared to have been omitted from the application.

In response, on 11 March, 2002, the present petition was filed, accompanied by, *inter alia*, one (1) sheet of drawings containing Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2. Petitioners assert that Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 described in the specification were included in the Japanese priority document filed concurrently with the application, and which was incorporated by reference in the first paragraph of the specification of the present application by the Preliminary Amendment filed with the original application papers on 1 November, 2001.

A review of the priority document submitted on 1 November, 2001, reveals that it does include one (1) sheet of drawings containing Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 which appear to be


identical to the one (1) sheet of drawings containing Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 which was intended to be filed on 1 November, 2001, and which appears to correspond to the figure described in the specification. Accordingly, on petition, the drawings of Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 in the Japanese priority document will be construed as the drawing of Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 described in the specification for filing date purposes.

The copy of Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 with English text supplied with the present petition will be used for processing and examination. As the Notice correctly stated that Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 *appeared* to have been omitted, the petition fee of \$130.00 will not be refunded.

Petitioners' statement that the above-identified application "was intended to be an English language counterpart of the Japanese priority application" is being construed as a statement in accordance with 37 CFR 1.52(d) that the copy of Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 is an accurate English translation of Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 included in the Japanese priority document filed with the original application papers. Petitioners **must** inform the Office if this is an incorrect interpretation.

The application file is being forwarded to Office of Initial Patent Examination for further processing with a filing date of 1 November, 2001, using the application papers filed on 1 November, 2001, and the copy supplied on 11 March, 2002, of the English translation of the one (1) sheet of drawings containing Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 in the Japanese priority document filed with the present application on 1 November, 2001, and for an indication in Office records that seven (7) sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.


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Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy